

Dan Kikinis
Serial No. 09/782,896
Reply Brief

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Dan Kikinis

Serial No.: 09/782,896

Filed: February 13, 2001

For: METHOD AND SYSTEM FOR 3-D
ENHANCED ADVERTISING FOR TV
BROADCAST OF 2-D VIDEO

Atty. Docket No.: 007287.00045

Group Art Unit: 2424

Examiner: Usha Raman

Confirmation No.: 3324

REPLY BRIEF

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Sir:

This *Reply Brief* is filed pursuant to 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed October 27, 2009. Because Appellants believe that the examining corps' errors are readily ascertainable on the briefs, Appellants do not request an oral hearing at this time. However, if the Board of Patent Appeals & Interferences believes that an oral hearing would be beneficial, the Board is invited to contact Appellants' undersigned representative at (202) 824-3156.

Remarks

The Examiner's Answer at pp. 3-6 repeats the rejections in the final Office Action dated February 4, 2009, which were fully addressed in Appellants' Appeal Brief filed May 26, 2009. This Reply Brief addresses the Answer's "Response to Argument" beginning on page 6.

I. Ficco and Blanz do not teach or suggest looking-up a matching 3-D object in an image library using a look-up table, wherein the library comprises one or more 3-D objects.

The Examiner responds to Appellant's remarks by essentially conceding that Ficco does not teach or suggest a library of one or more 3-D objects. See, e.g., Examiner's Answer at p. 6-7. Instead, the Examiner's Answer cites to Blanz at col. 12, ll. 19-21. Even assuming, without conceding, that Blanz describes a library of 3-D objects, nowhere does either Ficco or Blanz teach or suggest the looking-up of a matching 3-D object. The Office concedes at p. 8 of the Examiner's Answer that Ficco does not teach or suggest such a feature and instead cites to Blanz at col. 12, ll. 19-21 and ll. 30-34. However, the cited passages of Blanz do not teach or suggest looking-up a **matching** 3-D object. In fact, Blanz specifically describes the retrieval of an **average** face to an object analyzer. Col. 12, ll. 24-28. Blanz states that the object analyzer then generates a 3-D model of an input image by modifying the retrieved average face model. Col. 12, ll. 33-36; *see also* Col. 8, ll. 4-11. Thus, as clearly stated by Blanz, the 3-D model that allegedly matches the 2-D input image is generated by the object analyzer, not retrieved or looked-up from a library. Stated differently, the retrieval from the 3-D object database in Blanz is merely of an **average** face, not one that matches the 2-D input image. Accordingly, notwithstanding the propriety of the asserted combination, the combination would not have resulted in the features as recited in claims 1, 7, 13 and 19.

Furthermore, even assuming, *arguendo*, that Blanz describes retrieval of a matching 3-D face object, there is no reason to combine such a feature of Blanz with Ficco in the asserted manner. Ficco specifically describes the use of the same or original alleged 3-D object (i.e., the wireframe), thereby eliminating a need, reason or motivation to look-up a matching wireframe model when processing a broadcast advertisement. *See, e.g.*, p. 6, para. [0090] (stating that "Johnny Unitas could be texture mapped onto a wireframe model of the original quarterback in a broadcast football game."). (Emphasis Added). In response, the Examiner's Answer suggests at p. 8 a scenario where a user may have a liking for both Kathy Ireland, and Johnny Unitas, however may not want a female model to be rendered with a Johnny Unitas texture map. The Answer goes on to state that:

Accordingly in such scenarios, even though the system may store enhancement objects pertaining to both Kathy Ireland and Johnny Unitas, the user may find it desirable to have all the female models enhanced with the likeness of Kathy Ireland and not Johnny Unitas. In such cases it is desirable to look up a "matching" enhancement object (i.e. enhance with Kathy Ireland rather than Johnny Unitas). Similarly, even though the user may express a high interest cars, it maybe advantageous to enhance the advertisements containing cars by generating a 3D rendering of the car, but not desirable to replace human beings in an advertisement with 3D object of the car.

Accordingly in its broadest reasonable interpretation, such matching reads on scenarios comprising matching female 3D object to female 2D image, or matching of a human 3D object to human 2D image.

However, the above scenario posed by the Answer is neither taught nor suggested in Ficco as evidenced by the fact that the Answer does not cite any passages of Ficco for support of the above assertions. It appears that the Answer is suggesting such a scenario and the resulting need to replace one wireframe model with another are inherently taught by Ficco. However, Appellant notes that the fact that a certain result or characteristics may occur or be present in the prior art is NOT sufficient to establish the inherency of that result or characteristics. MPEP § 2112(IV) (citing *In re Rijckaert*, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993) (emphasis added). To establish inherency, "the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.'" *In re Robertson*, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999). Accordingly, claims 1, 7, 13 and 19 are allowable for these additional reasons.

II. *Ficco and Blanz do not teach or suggest generating an enhanced first advertisement, wherein the enhanced first advertisement has a 3-D highlighted rendering of the image produced by pushing the 3-D object into the 2-D image.*

The Examiner's Answer concedes at p. 9 that Ficco does not teach or suggest such features but asserts at pp. 9-10 that Blanz describes the morphing/warping of a 2D image to a 3D

object to create a final product wherein the underlying structure is defined by characteristics of the 3D object while the overlaying surface is defined by characteristics of the 2D image. Applicant respectfully submits that this is a mischaracterization of Blanz. The passages cited by in the Answer in support of the above assertion merely state that the 3D model is morphable to the image, not the other way around. *See, e.g.*, Col. 7, ll. 60-61. Thus, even assuming that a texture is applied to the face object, the face object is not the face object retrieved from the library. Instead, the retrieved face object is modified to meet the requirements of the input image. Col. 7, line 50 – Col. 8, line 11. Accordingly, Ficco and Blanz clearly do not teach or suggest the pushing of a 2-D image onto a retrieved matching 3-D object as recited in claims 1, 7, 13 and 19.

CONCLUSION

Appellant believes that the above reasoning presents the clearest arguments for overturning the rejection. For all the foregoing reasons, and based on the previously submitted arguments, Appellant respectfully requests that the Board instruct the examining corps to withdraw the rejections and pass this case to issuance at its earliest convenience. If there are any questions or any additional information is required, please contact Appellant's undersigned representative at (202) 824-3156.

Respectfully submitted,
BANNER & WITCOFF, LTD.

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